

**REMARKS**

Claims 11-21 are pending. This Amendment adds new claim 21. Claims 17 and 24 are independent.

**The Drawing Objections**

The Office Action objects to the drawings as failing to comply with 37 C.F.R. § 1.84(p)(5) because they allegedly do not include the following reference sign(s) mentioned in the description: "openings 9" and "cam 9".

This Amendment amends the specification to correct these occurrences of the reference numerals to correctly identify the "openings 4" and "cam 8," thereby obviating this objection. These amendments are consistent with the use of these reference numerals throughout the specification. See, e.g., page 9, lines 11-20.

Applicants respectfully request withdrawal of this objection.

**The Specification Objections**

The Office Action objects to the disclosure because of informalities. This Amendment amends the specification to include section headings, thereby obviating this objection.

Applicants respectfully request withdrawal of this objection.

**The Rejections under 35 U.S.C. § 112, first paragraph**

The Office Action rejects claim 12 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Applicants respectfully traverse this rejection.

M.P.E.P. § 2163.02 sets out the standard for complying with the written description requirement of 35 U.S.C. § 112, first paragraph:

"An objective standard for determining compliance with the written description requirement is, "does the description clearly allow persons of ordinary skill in the art to recognize that he or she invented what is claimed. [...] to satisfy the written description requirement, an applicant

must convey with reasonable clarity to those skilled in the art that, as of the filing date sought, he or she was in possession of the invention, and that the invention, in that context, is whatever is now claimed."

Whenever the issue arises, the fundamental factual inquiry is whether the specification conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, applicant was in possession of the invention as now claimed. [...] An applicant shows possession of the claimed invention by describing the claimed invention with all of its limitations using such descriptive means as words, structures, figures, diagrams, and formulas that fully set forth the claimed invention.

Applicants respectfully submit that the original disclosure and figures convey with reasonable clarity to those skilled in the art that the features of claim 11 was in possession of the Applicants, as of the filing date. The features of claim 11 very clearly are supported by the original disclosure and this rejection should be withdrawn.

The Office Action asserts that the feature "and a movement that is not a to-and-fro displacement movement in alternating directions" is new matter.

Contrary to the assertion in the Office Action, the specification discloses that the distributor is arranged so that it (1) can be moved and (2) preferably can be displaced in a to-and-fro movement in alternating direction. See, e.g., page 4, lines 16-19; see also, page 5, lines 20-21. Hence, the to-and-fro movement is preferred, but not required.

The disclosure is directed to movement that is not a to-and-fro displacement movement in alternating directions, as well as movement that is a to-and-fro displacement movement in alternating directions.

Thus, these features of claim 12 are described in the specification, thereby conveying with reasonable clarity to those skilled in the art that the features of claim 12 were in possession of the Applicants, as of the filing date. These features of claim 12 do not constitute new matter.

For at least these reasons, the features of claim 12 clearly are supported by the original disclosure, and therefore, certainly comply with the written description requirement.

Applicants respectfully request withdrawal of this rejection.

**The Rejections under 35 U.S.C. § 112, second paragraph**

The Office Action rejects claims 11, 13, and 20 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants respectfully traverse these rejections.

M.P.E.P. § 2173.02 sets out the standard for complying with 35 U.S.C. § 112, second paragraph:

The essential inquiry pertaining to the requirement under 35 U.S.C. § 112, second paragraph, is 'whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity. Definiteness of claim language must be analyzed, not in a vacuum, but in light of: (A) the content of the particular application disclosure; (B) the teachings of the prior art; and (C) the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.'

Regarding claim 11, the Office Action asserts that the phrase "and having two open ends via which rinsing liquid can be supplied in a pressurized manner" is not understood.

The specification describes an exemplary aspect in which the spray channels 3 each have two open ends wherein the open ends of the spray channels 3 on one side open into a first distributor 5 and the open ends of the spray channels 3 on the opposite end open into a second distributor. See, e.g., page 7, lines 21-23. A pressurized rinsing liquid is supplied to the spray channels 3 (i.e., supplied in a pressurized manner). See, e.g., page 7, lines 27-32, and page 8, lines 1-4.

Thus, one of ordinary skill in the art would not be reasonably apprised of the scope of the invention, and claim 11 is clear and definite.

Regarding claim 20, the Office Action asserts that the phrase "is one of a plurality of spray channels that are aligned parallel to one another at least on the bottom of the rinsing container" is not understood.

Considered in its entirety, claim 20 recites that the at least one spray channel is one of a plurality of spray channels that are aligned parallel to one another at least on the bottom of the rinsing container. That is, the claimed spray channel is one of a plurality of spray channels. The plurality of spray channels are aligned parallel to one another at least on the bottom of the rinsing container. The specification describes these features at, for example, page 6, lines 8-16, and page 7, lines 9-10.

Thus, one of ordinary skill in the art would be reasonably apprised of the scope of the invention, and claim 20 is clear and definite.

Regarding claim 13, the Office Action asserts that the term "pressurized manner" in claim 13 is a relative term which renders the claim indefinite. The Office Action asserts that the term "pressurized manner" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Contrary to the assertions in the Office Action, Applicants respectfully submit that one of ordinary skill in the art certainly would know and be reasonably apprised of the scope of the invention, including the at least one distributor has at least one opening through which rinsing liquid can be supplied in a pressurized manner via an open end of the spray channel, as recited in claim 13.

Indeed, as explained above, the specification describes an exemplary aspect in which the spray channels 3 each have two open ends wherein the open ends of the spray channels 3 on one side open into a first distributor 5 and the open ends of the spray channels 3 on the opposite end open into a second distributor at, for example, page 7, lines 21-23. A pressurized rinsing liquid is supplied to the spray channels 3 (i.e., supplied in a pressurized manner). See, e.g., page 7, lines 27-32, and page 8, lines 1-4.

One of ordinary skill in the art, and particularly in the field of dishwashers, certainly would know and understand that pressurized rinsing liquid can be supplied to the spray channels such that the rinsing liquid is sprayed from the openings in the spray channels.

Thus, one of ordinary skill in the art would be reasonably apprised of the scope of the invention, and claim 13 is clear and definite.

For at least these reasons, claims 11, 13, and 20 are clear and definite. Applicants respectfully request withdrawal of this rejection.

### **The Claimed Invention**

An exemplary embodiment of the claimed invention, as recited by, for example, independent claim 11, is directed to a dishwasher comprising a spray device for spraying rinsing liquid into the interior of the rinsing container, the spray device including at least one spray channel for guiding a rinsing liquid and at least one distributor for regulating the supply of rinsing liquid to the at least one spray channel, the at least one spray channel having, on a side directed towards the interior of the rinsing container, openings for the passage therethrough of the rinsing liquid and having two open ends via which rinsing liquid can be supplied in a pressurized manner.

Many conventional dishwashers include spray devices which operate with rotating spray arms. In many cases, the corner areas of the rinsing container are not adequately sprayed with rinsing liquid by the rotating spray arms, since the rotating spray arms have a circular range of action, while the rinsing container commonly is rectangular. Moreover, items to be washed in the dishwasher can interfere with the rotating spray arms, thereby limiting operation of the dishwasher, the arrangement of items in the dishwasher, and the use of space within the dishwasher. Such spray devices commonly produce only uniform spray jets which may be insufficient to adequately clean the items to be rinsed.

In stark contrast, the present invention provides a dishwasher with a space-saving spray device that has no moving spray arms, thereby minimizing breakdowns associated with such moving parts, eliminating interference between the spray device and the arrangement of items in the dishwasher, and improving the use of space within the dishwasher.

The present invention also provides a spray device in which the rinsing liquid is sprayed in the rinsing container as uniformly as possible to efficiently act upon the items to be rinsed with rinsing liquid, can produce variable spray jets in order to improve the cleaning effect of the items to be rinsed, and can provide different spray patterns. Moreover, the present invention provides a spray device that can be configured in almost any shape to correspond to any shape of the rinsing container.

**The Rejections under 35 U.S.C. § 102**

The Office Action rejects claims 11, 14-15, 18, and 20 under 35 U.S.C. § 102(b) as being anticipated by the Lutolf reference (FR2285838). Applicants respectfully traverse this rejection.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. [...] The identical invention must be shown in as complete detail as is contained in the ... claim." M.P.E.P. § 2131.

Applicants respectfully submit that the Lutolf reference does not disclose the features of the claimed invention a spray device including at least one spray channel for guiding a rinsing liquid and at least one distributor for regulating the supply of rinsing liquid to the at least one spray channel, the at least one spray channel having, on a side directed towards the interior of the rinsing container, openings for the passage therethrough of the rinsing liquid and having two open ends via which rinsing liquid can be supplied in a pressurized manner, as recited by independent claim 11.

As explained above, these features are important for providing a space-saving spray device that has no moving spray arms, thereby minimizing breakdowns associated with such moving parts, eliminating interference between the spray device and the arrangement of items in the dishwasher, and improving the use of space within the dishwasher, while also providing uniform spraying, producing variable spray jets and different spray patterns, and providing a spray device that can be configured in almost any shape to correspond to any shape of the rinsing container.

The Lutolf reference does not disclose these features. Indeed, the Lutolf reference fails to disclose at least one distributor for regulating the supply of rinsing liquid to the at least one spray channel, as recited in claim 11.

Instead, as shown the Figure, the Lutolf reference discloses check valves or one-way valves 60, 80, which simply allow flow in a single direction. Based on a computer translation of the Lutolf reference obtained from the European Patent Office web site, the valve symbols used for 60, 80 in the Figure are consistent with the description of the Lutolf reference, which describes that the liquid flows only from pipes 55 and 77 through check valves 60, 80 respectively toward the shower pipes 3.

In stark contrast, claim 11 recites at least one distributor for regulating the supply of rinsing liquid to the at least one spray channel.

In comparison, the check valves 60, 80 of the Lutolf reference do not regulate the supply of rinsing liquid to the pipe system 3. Instead, the check valves simply restrict flow back from the pipe system 3 toward the pipes 55 and 77, respectively.

As explained above, these features are important for providing a space-saving spray device that has no moving spray arms, thereby minimizing breakdowns associated with such moving parts, eliminating interference between the spray device and the arrangement of items in the dishwasher, and improving the use of space within the dishwasher, while also providing uniform spraying, producing variable spray jets and different spray patterns, and providing a spray device that can be configured in almost any shape to correspond to any shape of the rinsing container.

The Lutolf reference does not disclose at least one distributor for regulating the supply of rinsing liquid to the at least one spray channel, as recited in claim 11.

Applicants respectfully request withdrawal of this rejection.

### **The Rejections under 35 U.S.C. § 103**

The Office Action rejects claims 12-13 and 16 under 35 U.S.C. § 103(a) as being unpatentable over the Lutolf reference in view of the Bolla reference (CH571852), claim 19 under 35 U.S.C. § 103(a) as being unpatentable over the Lutolf reference, and claims

12-13 and 16-17 under 35 U.S.C. § 103(a) as being unpatentable over the Lutolf reference in view of the Perry reference (US 6,003,529).

Applicants respectfully traverse these rejections.

Applicants respectfully submit that none of the applied references discloses or suggests the features of the claimed invention including a spray device including at least one spray channel for guiding a rinsing liquid and at least one distributor for regulating the supply of rinsing liquid to the at least one spray channel, the at least one spray channel having, on a side directed towards the interior of the rinsing container, openings for the passage therethrough of the rinsing liquid and having two open ends via which rinsing liquid can be supplied in a pressurized manner, as recited by independent claim 11.

As explained above, these features are important for providing a space-saving spray device that has no moving spray arms, thereby minimizing breakdowns associated with such moving parts, eliminating interference between the spray device and the arrangement of items in the dishwasher, and improving the use of space within the dishwasher, while also providing uniform spraying, producing variable spray jets and different spray patterns, and providing a spray device that can be configured in almost any shape to correspond to any shape of the rinsing container.

The Lutolf reference very clearly does not teach or suggest these features. Indeed, the Office Action specifically acknowledges that the Lutolf reference lacks the teaching of the to-and-fro movement of the distributor in alternating directions and the drive means, as recited in claim 12. However, the Office Action asserts that either the Bolla reference or the Perry reference makes up for the deficiencies of the Lutolf reference.

Applicants respectfully submit that one of ordinary skill in the art would not have had an apparent reason to combine the disclosure of the Lutolf reference with the disclosure of the Bolla reference, or the disclosure of the Lutolf reference with the disclosure of the Perry reference, to arrive at the claimed invention as a whole.



Moreover, the Office Action does not establish an adequate rationale for making such a combination.

Instead, regarding the Bolla reference, the Office Action makes the conclusory statement that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Lutolf reference with the Bolla reference to create a dishwashing machine with an alternating spray pattern to achieve the expected result. The Office Action fails to provide any support for these conclusions.

Regarding the Perry reference, the Office Action similarly makes the conclusory statement that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Lutolf reference with the Perry reference to create a dishwashing machine with an alternating spray pattern to achieve the expected result. The Office Action fails to provide any support for these conclusions.

Appellants respectfully submit that such conclusory statements are insufficient to provide a prima facie case for obviousness because the Office Action fails to provide an adequate rationale for modifying the prior art as required by *KSR International v. Teleflex Inc.* 82 U.S.P.Q. 2d 1385 (2007).

"[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rationale underpinning to support the legal conclusion of obviousness." (In re Kahn, 441 F.3d 977, 988 (CA Fed. 2006) cited with approval in *KSR*).

The Office Action provides absolutely no hint of any articulated reasoning with any rationale underpinning to support a legal conclusion of obviousness. As such, the Office Action fails to present a prima facie case for obviousness.

The Office Action provides no articulated reasoning to modify the Lutolf reference to arrive at the claimed invention, except from using Appellant's invention as a template through hindsight reconstruction of Appellant's claims.

In stark contrast to the teachings of the applied references, independent claim 11 recites a spray device including at least one spray channel for guiding a rinsing liquid and at least one distributor for regulating the supply of rinsing liquid to the at least one spray

channel, the at least one spray channel having, on a side directed towards the interior of the rinsing container, openings for the passage therethrough of the rinsing liquid and having two open ends via which rinsing liquid can be supplied in a pressurized manner.

As explained above, these features are important for providing a space-saving spray device that has no moving spray arms, thereby minimizing breakdowns associated with such moving parts, eliminating interference between the spray device and the arrangement of items in the dishwasher, and improving the use of space within the dishwasher, while also providing uniform spraying, producing variable spray jets and different spray patterns, and providing a spray device that can be configured in almost any shape to correspond to any shape of the rinsing container.

With respect to claim 17, the Office Action acknowledges that the applied references do not disclose the claimed the at least one distributor includes a drive slot and the drive means includes a rotary disk and a cam arranged thereon, which engages in the drive slot formed in the at least one distributor. However, the Office Action alleges that these features would be an obvious matter of design choice.

Contrary to the assertions in the Office Action, Applicants respectfully submit that these features would not be an obvious matter of design choice. Moreover, it is not appropriate to rely solely on case law as the rationale to support this rejection, since Applicants very clearly have demonstrated the criticality of these features, and the Office Action clearly fails to establish a prima facie case with respect to these features allegedly being an obvious matter of design choice. See, e.g., page 5, lines 20-24; page 7, lines 27-32, and page 8, lines 1-4, and lines 18-25.

For at least the foregoing reasons, none of the applied references discloses or suggests the subject matter defined by claims 11-20.

Applicants respectfully request withdrawal of these rejections.

**CONCLUSION**

In view of the above, Applicants respectfully request entry of the present Amendment and allowance of claims 11-21. Applicants request the Examiner to contact the undersigned if the Examiner has any questions regarding this amendment. Applicants petition for an extension of time for this paper if it is required.

Respectfully submitted,

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May 22, 2009

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